

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
 V.)
)
 FRANK DEPERGOLA, ET AL.)

CR. NO. 05-30002-MAP

GOVERNMENT'S MOTION FOR ISSUANCE
OF A MATERIAL WITNESS WARRANT

The United States by its undersigned attorneys requests this Honorable Court to issue a warrant of arrest for Leone Daniele, a material witness in the upcoming trial captioned United States v. Frank Depergola, et al. Cr. No. 05-30002-MAP.

This petition is filed pursuant to the provisions of Title 18, United States Code, Section 3144, on grounds (more fully set out in the Affidavit attached hereto) that the said Leone Daniele is a material witness in a criminal proceeding and it is impracticable to secure his attendance by subpoena.

Very truly yours,

MICHAEL J. SULLIVAN
United States Attorney

By: Todd E. Newhouse
TODD E. NEWHOUSE
Assistant U.S. Attorney

Date: March 30, 2006

ALLOWED.
Michael J. Purn USAT
3-30-06

AFFIDAVIT

I, Brian F. Warren, having been sworn, state that:

1. I am a Special Agent with the Federal Bureau of Investigation (FBI). I participated in the investigation of loansharking and racketeering in the Springfield, Massachusetts area which led to the return of the indictment captioned United States v. Frank Depergola, et al. Cr. No. 05-30002-MAP. I am familiar with all aspects of the investigation which preceded the return of the indictment including the testimony of witnesses subpoenaed to appear before the grand jury.

2. Leone Daniele has been a cooperating witness with the FBI since 1999. Daniele pro-actively cooperated with the FBI regarding violations of federal law including loansharking, 18 U.S.C. §§ 892-894, by various individuals. On October 7, October 14, October 28, November 4, and November 18, 2003, Daniele appeared before a federal grand jury pursuant to a grand jury subpoena and as part of his cooperation agreement. Daniele's testimony before the jury, together with consensual recordings he made and other evidence, form the basis for Counts One and Two of the above captioned Indictment.

3. Daniele is an Italian citizen who has resided in the United States for several years pursuant to an Immigration status. On or about February 9, 2004, Daniele was arrested in Springfield, Massachusetts and charged with, among other things,

possession of a firearm without a permit and was eventually indicted in Hampden County Superior Court. On or about October 18, 2004, Daniele was convicted of the firearms offenses and was sentenced to one year in the Hampden County House of Corrections. He served the sentence and was released. Subsequent to his release from jail, Daniele received correspondence from the Immigration and Customs Enforcement (ICE) officials requiring him to appear for an administrative hearing regarding the effect of his state conviction on his immigration status. Daniele failed to appear.


4. On or about March 17, 2006, Daniele appeared at the Boston, MA office of ICE to pick up his Italian passport and was arrested and taken into ICE custody. Daniele was attempting to travel to Italy to see his mother. Subsequent to March 17, 2006, Daniele was taken before an administrative judge, waived all his rights to hearings and appeals, and agreed to be deported to Italy. Claudia English, a supervisory employee of ICE, told me on March 29, 2006, that Daniele's deportation was imminent and could happen in the next 24 to 48 hours.

5. Daniele is a necessary witness at the upcoming trial of United States v. Frank Depergola, et al. Cr. No. 05-30002-MAP, which is currently scheduled for June 19, 2006. If this Court issues a material witness warrant, Daniele will be in the custody of the FBI and/or United States Marshals Service and lodged at a jail facility until the completion of his testimony. ICE will

lodge a detainer with Daniele which will mean that after his testimony he will be taken into custody by ICE and deported.

6. I recently served a trial subpoena upon Daniele. However, I was told by Ms. English of the ICE that because Daniele has already been ordered deported, the trial subpoena will not delay the deportation. Ms. English told me that ICE will transfer custody of Daniele to the FBI/USMS upon the issuance of a material witness warrant. Therefore, it has "become impracticable to secure [Daniele's] presence.....by subpoena." 18 U.S.C. § 3144.

Wherefore, I request that this Court issue an arrest warrant for Leone Daniele pursuant to the provisions of Title 18 United States Code, Section 3144.



Brian F. Warren
Special Agent, FBI

Jurat

Hampden, ss.

Springfield, Massachusetts

On this 30th day of March, 2006, before me, Laureen M. Cote, the undersigned notary public, personally appeared Brian F. Warren, proved to me through satisfactory evidence of identity, which was personally known to me, to be the person whose name is signed on the preceding or attached document, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his/her knowledge and belief.


LAUREEN M. COTE
Notary Public

My commission expires: 7/12/2007

